IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.20656 of 1999

S.H.Syed Jaffrullah
73, M.C.Road,
Ambur, Vellore District. .. Petitioner.

Versus

1.State of Tamilnadu,
rep. By its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Vellore, Vellore District.

3.Special Tahsildar (ADW),
Gudiyatham, Vellore District. .. Respondents.

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for a writ of Certiorari, calling for the records pertaining to the order passed by the second respondent in his proceedings K.10/83549/98, dated 22.3.1999, as published in Vellore District Gazette No.15, dated 8.4.1999 and quash the same.

For petitioner : Mr.C.Selvaraju

For respondent : Mr.V.Manoharan
Government Advocate

O R D E R

Heard Mr.C.Selvaraju, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

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2. It is stated by the petitioner that his father had purchased lands in S.No.276/1, measuring an extent of 5.70 acres in the year 1960. After the purchase, the land had been re claimed and 300 coconut trees had been planted in the said land. The lands have been leased out for an annual rent of Rs.60,000/- and all the legal heirs of the petitioner's father, who had died in the year 1982, are living out of the income generated from the said land. While so, land acquisition proceedings had been initiated, under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, to acquire 4.18 acres of the land belonging to the petitioner and the other members of his family. Since notice regarding the acquisition had been issued only to the mother of the petitioner, the petitioner and the other owners of the land had raised objections to the acquisition proceedings. However, without considering the said objections, a notice under Section 4(1) of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, had been published in the Gazette. Since the copy of the notification had not been made available to the petitioner he was compelled to file a writ petition before this Court in W.P.No.19226 of 1999, praying for a writ of mandamus to direct the authorities concerned to furnish a copy of the gazette wherein the publication had been made. It has also been stated that inspite of the fact that there are 300 high yielding coconut trees in the land that was being acquired, the respondents have stated that there are only 110 aged coconut trees. Fourteen families and their children are depending upon the income from the land under acquisition. Further, the land has been mortgaged for a loan availed by the petitioner and the others interested in the said land. A civil suit in O.S.No.139 of 1984 is pending on the file of the Sub-Court, Vellore, for a recovery of a sum of Rs.1,10,000/-. The said suit had been transferred to the Sub-Court, Gudiyatham and re-numbered as O.S.No.18 of 1999. The petitioner's mother had also passed away on 14.11.1999 and the whole family is surviving on the annual lease amount of Rs.60,000/- arising out of the land.

3. The learned counsel appearing on behalf of the respondents, while denying the claims made on behalf of the petitioner, had submitted that the present writ petition filed by the petitioner is belated and devoid of merits. He has stated that the award relating to the lands in question had been passed on 19.11.1999 and the writ petition has been filed on 25.12.1999. In view of the decision rendered by the First Bench of this Court reported in Ramalingam and three others Vs. The State of Tamil Nadu rep. by the Secretary to the Industries Department, Fort St. George, Chennai-600 009 and two others (2005-2-L.W. 693), the present writ petition, filed after the passing of the award, is not maintainable.

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4. Considering the submissions made on behalf of the parties concerned and on a perusal of the records available, it is clear that the present writ petition has been filed after the passing of the award on 19.11.1999. In view of the decision rendered in Ramalingam and three others Vs. The State of Tamil Nadu rep. by the Secretary to the Industries Department, Fort St. George, Chennai-600 009 and two others (2005-2-L.W. 693), without going into the other aspects of the case, it is held that the writ petition is not maintainable. Hence, the writ petition is dismissed. No costs.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

csh

To

1. The Secretary to Government,
State of Tamilnadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Vellore, Vellore District.

3.The Special Tahsildar (ADW),
Gudiyatham, Vellore District.

+1 cc to Mr.S.Mani, Advocate, SR.No.73078.

1 cc To The Government Pleader, SR.73004

sr (co)
krd / 25.03.08

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